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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/517,115

03/14/2005

Seiji Nakayama

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23460 7590 08/06/2008

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EXAMINER

WOODWARD, ANA LUCRECIA

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

08/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/517,115	Applicant(s) NAKAYAMA ET AL.	
	Examiner Ana L. Woodward	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04/09/2008;05/06/2008;06/09/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-16,18,19,21,22,24,25,27,28,30,31 and 33-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-16,18,19,21,22,24,25,27,28,30,31 and 33-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/9/08, 5/6/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 8-16, 18, 19, 21, 22, 24, 25, 27, 28, 30, 31 and 33-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1239008 or U.S. 6,733,853 (both to Takashima et al) , cited for reasons of record, further in view of U.S. 6,129,961 (Sonoda et al).

The Takashima et al references each disclose compositions comprising (A) *preferably* 3 to 40% by mass of a partially aromatic polyamide resin (A) and 97 to 60% by mass of a polyester (B). The Takashima et al references differ in essence from the present claims in not expressly disclosing the use of a polyester comprising a fine powder content of 1,000 ppm or less. The benefit of using polyesters governed by low fine powder contents for the purpose of providing compositions governed by good transparency is well known in the art, as evidenced by Sonoda et al (examples). Accordingly, it would have been obvious to one having ordinary skill in the art to have employed, as the polyester in the Takashima et al compositions, a polyester having a low fine powder content and good transparency in applications where transparency is of importance. In this regard, it is noted that appearance of the molded articles, e.g., clarity, is of extreme importance for Takashima et al. Thus, absent evidence of unusual or unexpected results, no patentability can be seen in the presently claimed subject matter.

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Regarding the claims requiring 0.1 to 2 parts or 3 parts by weight of polyamide per 100 parts by weight of polyester, it is maintained that the prior art *preferred* lower limit of 3.1 parts by weight polyamide would have rendered obvious applicants' similar-such low polyamide contents to one having ordinary skill in the art with the reasonable expectation of success. This is because the claimed range and the prior art range contain contents that are very similar (i.e., 2 or 3 parts versus 3.1 parts) and, as such, the range of the prior art establishes prima facie obviousness because one of ordinary skill in the art would have expected the similar contents to have the same properties. Furthermore, the disclosure by the reference of a preferred embodiment does not teach away from the entire disclosure of the patent. Accordingly, absent evidence of unusual or unexpected results for the presently claimed upper limit of 3 parts, as opposed to the references' lower limit of 3.1 parts, no patentability can be seen in the presently claimed subject matter.

Response to Arguments

3. Applicant's arguments filed April 9, 2008 have been fully considered but they are not persuasive.

With regard to the presently claimed fine powder content governing the polyester, the improved transparency observed by applicants is consistent with the results one having ordinary skill in the art would reasonably expect in view of the teaching to Sonoda et al. That is, the improved transparency achieved by using a fine content of 80 ppm, as opposed to a content of 5,000 ppm, is not deemed unusual or unexpected.

As to the low polyamide contents of present claims 33-38, it is maintained that the prior art *preferred* lower limit of 3.1 parts by weight polyamide would have rendered obvious the use

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of very similar amounts to one having ordinary skill in the art with the reasonable expectation of success. This is because the claimed range and the prior art range contain contents that are very similar (i.e., 2 or 3 parts versus 3.1 parts) and, as such, the range of the prior art establishes prima facie obviousness because one of ordinary skill in the art would have expected the similar contents to have the same properties. The disclosure by the reference of a preferred embodiment does not teach away from the entire disclosure of the patent. There is at present no evidence of record demonstrating unusual or unexpected results for the presently claimed upper limit of 3 parts, as opposed to the references' lower limit of 3.1 parts. Accordingly, no patentability can be seen in the presently claimed subject matter.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ana L. Woodward whose telephone number is (571) 272-1082.

The examiner can normally be reached on Monday-Friday (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ana L. Woodward/
Primary Examiner
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